

CITY COUNCIL AGENDA

OCTOBER 28, 2008

SYNOPSIS

PETE CONSTANT
FORREST WILLIAMS
SAM LICCARDO
KANSEN CHU
NORA CAMPOS

DISTRICT 1
DISTRICT 2
DISTRICT 3
DISTRICT 4
DISTRICT 5

CHUCK REED MAYOR

PIERLUIGI OLIVERIO
MADISON P. NGUYEN
DAVID D CORTESE, VICE MAYOR
JUDY CHIRCO
NANCY PYLE

DISTRICT 6
DISTRICT 7
DISTRICT 8
DISTRICT 9
DISTRICT 10

Welcome to the San José City Council meeting!

This Agenda contains both a Consent Calendar section for routine business items that require Council approval, and general business items arranged to correspond with San José's City Service Areas (CSAs). City Service Areas represent the policy-making level for strategic planning, policy setting, and investment decisions in the critical functions the City provides to the community. They are:

- ***Strategic Support Services*** — The internal functions that enable the CSAs to provide direct services to the community in an effective and efficient manner.
- ***Community & Economic Development*** — Manage the growth and change of the community in order to create and preserve healthy neighborhoods and ensure a diverse range of employment and housing opportunities.
- ***Neighborhood Services*** — Serve, foster, and strengthen community by providing access to lifelong learning and opportunities to enjoy life.
- ***Transportation & Aviation Services*** — A safe and efficient transportation system that contributes to the livability and economic health of the City; and provide for the air transportation needs of the community and the region at levels that is acceptable to the community.
- ***Environment and Utility Services*** — Manage environmental services and utility systems to ensure a sustainable environment for the community.
- ***Public Safety Services*** — Commitment to excellence in public safety by investing in neighborhood partnerships as well as prevention, enforcement, and emergency preparedness services.

Items listed in Section 9 require approval of both the City Council and the San José Redevelopment Agency Board.

You may speak to the City Council about any item that is on the agenda, and you may also speak during Open Forum on items that are not on the agenda and are within the subject matter jurisdiction of the City Council or Redevelopment Agency Board. If you wish to speak to the City Council, please refer to the following guidelines:

- **Fill out a Yellow Speaker's Card and submit it to the City Clerk seated at the front table. Do this before the meeting or before the item is heard.** This will ensure that your name is called for the item(s) that you wish to address, and it will help ensure the meeting runs smoothly for all participants.
- When the Council reaches your item on the agenda, Mayor Reed will open the public hearing and call your name. Please address the Council from the podium, which is located to the left of the City Clerk's table.
- Each speaker generally has two minutes to speak per item. The amount of time allotted to speakers may vary at the Mayor's discretion, depending on the number of speakers or the length of the agenda.
- To assist you in tracking your speaking time, there is a display on the podium. The green light turns on when you begin speaking; the yellow light turns on when you have 30 seconds left; and the red light turns on when your speaking time is up.

Please be advised that, by law, the City Council is unable to discuss or take action on issues presented during Open Forum. According to State Law (the Brown Act) items must first be noticed on the agenda before any discussion or action.

The San José City Council meets every Tuesday at 1:30 p.m. and every first and third Tuesday at 7 p.m., unless otherwise noted. If you have any questions, please direct them to the City Clerk's staff seated at the tables just below the dais. Thank you for taking the time to attend today's meeting. We look forward to seeing you at future meetings.

Agendas and Staff Reports for City Council items may be viewed on the Internet at www.sanjoseca.gov/clerk/agenda.asp. Council Meetings are televised live and rebroadcast on Channel 26.

All public records relating to an open session item on this agenda, which are not exempt from disclosure pursuant to the California Public Records Act, that are distributed to a majority of the legislative body will be available for public inspection at the Office of the City Clerk at San José City Hall, 200 E. Santa Clara Street, Council Wing, 2nd Floor, San José, CA 95113 at the same time that the public records are distributed or made available to the legislative body.

To arrange an accommodation under the Americans with Disabilities Act to participate in this public meeting, please call (408) 535-1260 or (408) 294-9337 (TTY) at least two business days before the meeting.

On occasion the City Council may consider agenda items out of order.

- **Call to Order and Roll Call**
9:00 a.m. - Closed Session, Call to Order in Council Chambers
Absent Council Members: Campos. (Excused)

1:30 p.m. - Regular Session, Council Chambers, City Hall
Absent Council Members: Campos. (Excused)

7:02 p.m. - Public Hearings, Council Chambers, City Hall
Absent Council Members: Campos, Constant. (Excused)
- **Invocation (District 9)**
Pastor Bradley J. Smith of the San José Christian Reformed Church presented the Invocation.
- **Pledge of Allegiance**
Mayor Reed and 3rd graders from the San José Christian School led the Pledge of Allegiance.
- **Orders of the Day**
The Orders of the Day and the Amended Agenda were approved with Item 3.7 deferred to 11/4/08 and Item 11.2 deferred to 11/18/08.
- **Closed Session Report**
The City Council voted not to appoint Barbara Attard to a second four-year term as the Independent Police Auditor for San José, commencing January 1, 2009.
(Noes: Chu, Cortese, Liccardo, Nguyen).

1. CEREMONIAL ITEMS

- 1.1 Presentation of a commendation to Raley's Nob Hill Store #635 for rebuilding their store to a LEED Silver Standard. (Mayor/Williams/Economic Development)
Mayor Reed and Council Member Williams recognized and commended Raley's Nob Hill Store #635 for rebuilding their store to a LEED Silver Standard.
- 1.2 Swearing in ceremony for District 2 Youth Commissioner James Hill, III, District 3 Youth Commissioner Aaron Carrera, District 4 Youth Commissioner Kimberly Loo, District 6 Youth Commissioner Nicholas Scott Taxera, District 8 Youth Commissioner Nwakaego Uzoh, and Citywide Youth Commissioner Darlene Tu. (City Clerk)
(Rules Committee referral 10/22/08)
Heard in the evening.
City Clerk Lee Price administered Oaths of Office to District 2 Youth Commissioner James Hill, III, District 3 Youth Commissioner Aaron Carrera, District 4 Youth Commissioner Kimberly Loo, District 6 Youth Commissioner Nicholas Scott Taxera, District 8 Youth Commissioner Nwakaego Uzoh, and Citywide Youth Commissioner Darlene Tu.
- 1.3 Presentation of a commendation to Anitha and Adam Beberg for their heroic efforts to save the lives of their neighbors from a fire burning in their neighbor's home. (Constant)
(Rules Committee referral 10/22/08)
Mayor Reed and Council Member Constant recognized and commended Anitha and Adam Beberg for their heroic efforts.

2. CONSENT CALENDAR

- 2.1 **Approval of Minutes.**

Recommendation: Approval of Minutes.
(a) Regular Minutes dated August 5, 2008
(b) Regular Minutes dated August 12, 2008
Deferred to 11/4/08 per City Clerk.
- 2.2 **Final adoption of ordinances.**
None.

2. CONSENT CALENDAR

2.3 Amend the agreement for services at the Airport's Compressed Natural Gas Station.

Recommendation: Approve a first amendment to the agreement with Pinnacle CNG Company to extend the term of the agreement for operation and maintenance services at the Airport's Compressed Natural Gas Fueling Station from December 1, 2008 to June 30, 2010 and increase the total compensation by \$528,694, from \$939,118 to a not-to-exceed amount of \$1,467,812. CEQA: Resolution Nos. 67380 and 71451, PP 08-212. (Airport)

Approved.

2.4 Settlement Agreement with Browning-Ferris Industries of North America, Inc. and Allied Waste Services of North America, LLC.

Recommendation: Adopt a resolution authorizing the City Attorney to execute the Settlement Agreement and Release that provides for the payment to the City of \$958,834.07 of Franchise fees and AB939 fees, and \$27,928.46 of AB939 fees to San José Unified School District, by Browning-Ferris Industries of North America Inc. and Allied Waste Services of North America, LLC (BFI) arising out of solid waste collection services to public school districts in San José in exchange for the City's release of all obligations for Franchise fees due on BFI's service to these school districts prior to December 31, 2007, as authorized by the City Council in Closed Session on September 30, 2008. (City Attorney's Office)

Resolution No. 74639 adopted.

2.5 Identity Theft Prevention Program.

Recommendation: Adopt a resolution approving the Identity Theft Prevention Program and Procedures Related to Notices of Address Discrepancies to comply with regulations issued by the Federal Trade Commission pursuant to the Fair and Accurate Credit Transactions Act of 2003 and designation of the City Manager's Office to provide oversight of the Identity Theft Prevention Program. CEQA: Not a Project. (City Manager's Office)

Resolution No. 74640 adopted.

2.6 Approve actions related to Commercial Solid Waste Franchise Fees.

Recommendation:

- (a) Adopt a resolution amending Resolution No. 73256 to amend Commercial Solid Waste Collection Franchise Fees to set the commercial solid waste franchise fee for solid waste collected from public school districts and San José State University at zero if the school has a Waste Reduction and Recycling Cooperation Agreement with the City, to be effective November 1, 2008.

(Item Continued on the next page)

2. CONSENT CALENDAR

2.6 Approve actions related to Commercial Solid Waste Franchise Fees (Cont'd.)

- (b) Adopt a resolution authorizing the City Manager to negotiate and execute new and amended Waste Reduction and Recycling Cooperation Agreements with public school districts and San José State University to address fees for solid waste collection services to the schools and to supersede Resolution Nos. 73878 and 73969.
- (c) Provide direction to Staff regarding the disposition of fees that may be remitted to the City pursuant to a proposed settlement with Browning-Ferris Industries of North America Inc. and Allied Waste Services of North America, LLC (BFI) which were collected before July 1, 2007 by BFI from public school districts.

CEQA: Not a Project. (Environmental Services)

RENUMBERED TO ITEM 7.3

2.7 Report on Open Purchase Orders for FY 2008-2009 #4.

Recommendation: Approve an award of open purchase orders for supplies, materials, equipment and services for FY 2008-2009 #4 and authorization for the Director of Finance to execute the purchase orders. CEQA: See Administration's memo to Council for specific CEQA clearance determinations on each recommended action. (Finance)

Approved.

2.8 Award of contract for the Willows Senior Center Fire Damage Repair Project.

Recommendation:

- (a) Report on bids and award of contract for the construction of Willows Senior Center Fire Damage Repair Project to the low bidder, Quality Plus Construction, Inc., for the base bid and adds Alternate No. 1 in the amount of \$352,460 and approval of contingency in the amount of \$52,869.

Approved.

- (b) Adopt the following appropriation ordinance and funding sources resolution amendments in the General Fund:
 - (1) Increase the other revenue estimate in the General Fund by \$730,449.
 - (2) Establish an appropriation to the Department of Parks, Recreation and Neighborhood Services for the Willows Senior Center Fire Damage project in the amount of \$618,380.
 - (3) Increase the contingency reserve by \$112,069.

Council District 6. CEQA: Exempt, PP08-138. (PRNS/Public Works/City Manager)

Ordinance No. 28429 adopted.

Resolution No. 74641 adopted.

2. CONSENT CALENDAR

2.9 Amend Agreement for the Police Department Records Management System.

Recommendation: Adopt a resolution authorizing the City Manager to negotiate and execute a First Amendment to the Agreement with URL Integration, Inc., extending the term through February 28, 2009 including in the Scope of Services a Return on Investment study for the Records Management System; and increasing compensation in an amount not to exceed \$60,232, with the total amount of compensation not to exceed \$292,586. CEQA: Not a Project. (Police)

Resolution No. 74642 adopted.

2.10 Approve the FY 2008 Internet Crimes Against Children Continuation Grant.

Recommendation:

- (a) Adopt a resolution accepting the FY 2008 Internet Crimes Against Children Continuation Grant in the amount of \$550,141 and authorize the City Manager to execute the Grant Agreement and all related documents.

Resolution No. 74643 adopted.

- (b) Adopt amendments to the annual Appropriation Ordinance and the Funding Sources Resolution in the General Fund as follows:

- (1) Establish a City-wide appropriation to the Police Department for the FY 2008 Internet Crimes Against Children Continuation Grant in the amount of \$550,141;
- (2) Increase the Earned Revenue Estimate from the Federal Government by \$550,141.

CEQA: Not a Project. (Police/City Manager's Office)

Ordinance No. 28430 adopted.

Resolution No. 74644 adopted.

2.11 Approve a Willow Glen Community Benefit and Improvement District.

Recommendation: Adopt a resolution by the City Council:

- (a) Stating its intention to form a Community Benefit and Improvement District in Willow Glen;
- (b) Preliminarily approving the Willow Glen Management Plan and Engineer's Report;
- (c) Setting a public hearing on December 16, 2008 at 7:00 p.m.; and
- (d) Calling an election for tabulation of the ballots for December 16, 2008 at 7:00 p.m.

CEQA: Exempt, File PP08-097. Council District 6. (Public Works)

(Deferred from 10/21/08 – Item 4.2)

Resolution No. 74645 adopted.

3. STRATEGIC SUPPORT SERVICES

3.1 Report of the City Manager, Debra Figone (Verbal Report)
City Manager Debra Figone reported on the General Fund forecast, the Governor's intention to call for a special legislative session on November 7 regarding the State budget, and commented on the recent allocation of funds for the Gang Prevention Task Force.

3.2 Report of the Rules and Open Government Committee – October 8, 2008
Mayor Reed, Chair
Deferred to 11/4/08 per City Clerk.

3.3 Report of the Public Safety, Finance and Strategic Support Committee, October 16, 2008
Councilmember Nguyen, Chair
Report Accepted.

3.4 Ordinance Amendments to Implement the New Business Tax Billing System.

Recommendation: Approve an ordinance amending Chapter 4.76 of Title 4 of the San José Municipal Code by:

- (a) Amending Sections 4.76.240 and 4.76.270 to clarify the due date for the initial payment of the business tax and to revise the due date for subsequent payments of the business tax to correspond with the City's new business tax billing system;
- (b) Amending Section 4.76.290 to clarify the penalty provisions for late payment;
- (c) Adding a new Section 4.76.295 to authorize the Director of Finance to waive penalties under certain circumstances; and
- (d) Providing that the current renewal tax payment due dates will apply until such time as the new business tax billing system is successfully implemented.

CEQA: Not a Project. (Finance)

Ordinance No. 28431 passed for publication.

3.5 Bylaws of the Caltrain Centralized Equipment Maintenance and Operations Facility.

Recommendation: As recommended by the Rules and Open Government Committee, approve amending the bylaws of the Caltrain Centralized Equipment Maintenance and Operations Facility Monitoring Committee to modify the appointment requirements for representatives and to provide for alternate members. (Williams)

[Rules Committee referral 10/15/08 – Item G(1)]

Approved.

3.6 Report of the Rules and Open Government Committee – September 24, 2008
Mayor Reed, Chair
(Deferred from 10/7/08 – Item 3.2 and 10/21/08 – Item 3.7)
Report Accepted.

3. STRATEGIC SUPPORT SERVICES

3.7 Report of the Rules and Open Government Committee – October 1, 2008

Mayor Reed, Chair

(Deferred from 10/21/08 – Item 3.2)

Deferred to 11/4/08 per Orders of the Day.

3.8 Comprehensive Annual Financial Report and Comprehensive Annual Debt Report.

Recommendation:

(a) Verbal Presentation on the Comprehensive Annual Financial Report.

(b) Verbal Presentation on the Comprehensive Annual Debt Report.

[Public Safety, Finance and Strategic Support Referral 10/16/08 – Items (d) & (f)]

Reports Accepted.

3.9 Review of Workplan for Protocols and Policies Regarding Fire Department's Response to the County Jail.

Recommendation: Direct staff to pursue discussions with the County of Santa Clara for the purpose of developing a Memorandum of Understanding (MOU) regarding policies, procedures, training, safety, and ongoing interagency communications related to San José Fire Department responses to the County Jail. CEQA: Exempt.

[Public Safety, Finance and Strategic Support Referral 10/16/08 – Item (h)]

Approved.

4. COMMUNITY & ECONOMIC DEVELOPMENT

4.1 Report of the Community & Economic Development Committee

Councilmember Pyle, Chair

No Report.

4.2 Business Cooperation Program.

Recommendation:

(a) Accept the work plan for the Business Cooperation Program, which would maximize the allocation of use tax to the City.

(b) Direct the City Attorney's Office to draft an ordinance establishing the eligibility for use tax allocation incentive under the Business Cooperation Program.

CEQA: Not a Project. (Economic Development)

Accepted.

4. COMMUNITY & ECONOMIC DEVELOPMENT

4.3 Public Outreach on Under-Utilized City-Owned Property.

Recommendation: Direct staff to conduct community outreach to solicit public input on alternative uses, leasing potential, and/or sale of 44 under-utilized City-owned properties included in the report, with particular emphasis on identifying revenue generating and cost reducing options. CEQA: Not a Project. (City Manager's Office/Public Works)
Approved.

4.4 Historic Landmark Nomination and Mills Act Historical Property Contract for the Ames House.

Recommendation:

- (a) Public hearing and adopt a resolution designating the Ames House on a 0.16-acre site located at the east side of N. Fifteenth Street, approximately 90 feet south of E. Saint James Street (186 N. Fifteenth Street) as a landmark of special historic, architectural, cultural, aesthetic or engineering interest, or value of a historic nature. (City Landmark No. HL08-172)
- (b) Public hearing and adopt a resolution approving the Historical Property Contract (California Mills Act Contract No. MA08-004) between the City of San José and the owners of the Ames House (Hullene and Marcus Salomon). The proposed contract, which is available to owners of designated City Landmark buildings, would facilitate a property tax reassessment and partial tax relief in return for a binding agreement to rehabilitate and maintain the historical and architectural character of the property for at least a ten-year period.

CEQA: Exempt. SNI: 13th Street. Council District 3. (Planning, Building and Code Enforcement)

Continued to 12/02/08 per Administration.

5. NEIGHBORHOOD SERVICES

5.1 Report of the Neighborhood Services and Education Committee Councilmember Chirco, Chair. No Report.

5.2 Revised Council Policy #7-8: "Long-Term Use of City Parklands for Private Enterprise Purposes."

Recommendation: Adopt a resolution approving the revised Council Policy #7-8: "Long-Term Use of City Parklands for Private Enterprise Purposes," which would go into effect only if the Measure M on the November 2008 ballot is approved by the voters. CEQA: Not a Project. (Parks, Recreation and Neighborhood Services)
Resolution No. 74646 adopted.

5. NEIGHBORHOOD SERVICES

5.3 Memorandum of Understanding for the shared planning, development and operation of recreational facilities.

Recommendation: Approve the Memorandum of Understanding (MOU) between the City of San José and the East Side Union High School District for the shared planning, development and operation of recreational facilities. CEQA: Not a Project. Council Districts 2, 3, 4, 5, 7 and 8. SNI: Mayfair, KONA, West Evergreen. (Parks, Recreation and Neighborhood Services)

Deferred to 12/02/08 per Administration.

6. TRANSPORTATION & AVIATION SERVICES

6.1 Report of the Transportation and Environment Committee Councilmember Williams, Chair.

No Report.

6.2 Artwork on the east façade of the Airport's Consolidated Rental Car Garage.

Recommendation: Adopt a resolution authorizing the City Manager to negotiate and execute an agreement with Christian Moeller, to fabricate and install an artwork on the east façade of the Airport Consolidated Rental Car Garage at the Norman Y. Mineta San José International Airport in an amount not to exceed \$1,153,200. CEQA: Resolution Nos. 67380 and 71451, PP 08-226. (Economic Development)

Deferred to 11/18/08 per Administration.

6.3 Implementation of a Living Wage Ordinance applicable to the Norman Y. Mineta San José International Airport.

Recommendation: As recommended by the Transportation and Environment Committee:

- (a) Approve an ordinance amending Title 25 of the San José Municipal Code to add a new Chapter 25.11 to establish living wage, worker retention, labor peace and work environment reporting requirements applicable to the Norman Y. Mineta San José International Airport.

Ordinance No. 28432 passed for publication.

(Item Continued on the next page)

6. TRANSPORTATION & AVIATION SERVICES

6.3 Implementation of a Living Wage Ordinance applicable to the Norman Y. Mineta San José International Airport (Cont'd.)

- (b) Consider modifying the monitoring and enforcement language in the draft ordinance to require that the City apply the same pro-active enforcement procedures currently used in enforcement of the Living Wage Policy.
- (c) Consider modifying the minimum compensation section of the draft ordinance to exempt those employees of commercial airlines from whom the aggregate of wages, corporate payments for health insurance, and corporate payments into a pension fund exceed the City's living wage level, after review of the City Attorney's determination of the feasibility of the proposed modification.
- (d) Implement the ordinance Airport-wide effective January 1, 2009.
- (e) Direct staff to return to the Transportation and Environment Committee in March 2009 with an implementation plan for the training program at the Airport.

CEQA: Resolution Nos. 67380 and 71451, File No. PP08-199.

[Transportation and Environment Committee referral – 10/6/08 Item (j)]

Approved, with recommendations as proposed in Council Member William's and Council Member Pyle's supplemental (revised) memorandum of October 28, 2008.
Noes: Oliverio.

6.4 Amend Schedule of Fees and Charges at the Airport for Taxis and authorizing biennial setting of all taxi rates.

Recommendation:

- (a) Adopt a resolution:
 - (1) Amending the Schedule of Fees and Charges at the Norman Y. Mineta San José International Airport contained in Resolution No. 74536 to establish a Taxicab Minimum Rate of Fare from the Airport of \$15, which will include the \$1.50 Airport Trip Fee and any Waiting Time Rate and which will cover the first three miles of travel.
 - (2) Readopting all other Rates, Fares and Tariffs in Resolution No. 74536 not revised above.
 - (3) Repealing Resolution No. 74536.
- (b) Approve an ordinance amending Chapter 6.64 of Title 6 of the San José Municipal Code to authorize the Director of Transportation ("Director") to set and adjust taxicab rates, fares and surcharges based on industry indicators on a biennial basis, or sooner, as the Director deems appropriate.

CEQA: Not a Project. (Airport/Transportation) (Deferred from 10/21/08 – Item 6.2)

Ordinance No. 28439 passed for publication. Noes: Oliverio.

Staff directed to re-circulate the April 2008 joint information memorandum regarding elements of a Taxi Commission.

7. ENVIRONMENTAL & UTILITY SERVICES

7.1 Public hearing for a Commercial Solid Waste and Recyclables Collection Franchise.

Recommendation: Conduct a public hearing on the application of South Bay Hauling, Inc. dba South Bay Hauling and dba Eco Box Recycling for a Commercial Solid Waste and Recyclables Collection Franchise, approval of an ordinance granting the franchise, and approval of a Commercial Solid Waste and Recyclables Collection Franchise Agreement with South Bay Hauling, Inc. dba South Bay Hauling and dba Eco Box Recycling for a term from December 18, 2008 through June 30, 2009. CEQA: Exempt, File No. PP08-228. (Environmental Services)

Public Hearing held.

Ordinance No. 28433 adopted.

7.2 Public hearing for a Commercial Solid Waste and Recyclables Collection Franchise.

Recommendation: Conduct a public hearing on the application of Bernardini Enterprises Inc. dba JD Services for a Commercial Solid Waste and Recyclables Collection Franchise, approval of an ordinance granting the franchise, and approval of a Commercial Solid Waste and Recyclables Collection Franchise Agreement with Bernardini Enterprises Inc. dba JD Services for a term from December 18, 2008 through June 30, 2009. CEQA: Exempt, File No. PP08-228. (Environmental Services)

Public Hearing held.

Ordinance No. 28434 adopted.

7.3 Approve actions related to Commercial Solid Waste Franchise Fees.

Recommendation:

- (a) Adopt a resolution amending Resolution No. 73256 to amend Commercial Solid Waste Collection Franchise Fees to set the commercial solid waste franchise fee for solid waste collected from public school districts and San José State University at zero if the school has a Waste Reduction and Recycling Cooperation Agreement with the City, to be effective November 1, 2008.

Resolution No. 74647 adopted.

- (b) Adopt a resolution authorizing the City Manager to negotiate and execute new and amended Waste Reduction and Recycling Cooperation Agreements with public school districts and San José State University to address fees for solid waste collection services to the schools and to supersede Resolution Nos. 73878 and 73969.

Resolution No. 74648 adopted.

(Item Continued on the next page)

7. ENVIRONMENTAL & UTILITY SERVICES

7.3 Approve actions related to Commercial Solid Waste Franchise Fees (Cont'd.)

- (c) Provide direction to Staff regarding the disposition of fees that may be remitted to the City pursuant to a proposed settlement with Browning-Ferris Industries of North America Inc. and Allied Waste Services of North America, LLC (BFI) which were collected before July 1, 2007 by BFI from public school districts.

CEQA: Not a Project. (Environmental Services)

RENUMBERED FROM ITEM 2.6

Approved with direction to return settlement funds to school districts that paid them as outlined in Option #1 of Director of Environmental Services John Stufflebean's supplemental memorandum of October 16, 2008.

8. PUBLIC SAFETY SERVICES

9. JOINT COUNCIL/REDEVELOPMENT AGENCY

See Items 8.1 "Approval of an agreement with the San José Conservation Corps & Charter School for the creation of a Smart Start Center at 1560 Berger Drive" and 8.2 "Approval of actions related to the development of market rate housing on the North San Pedro Housing Project site" on the Redevelopment Agency Agenda, which will be heard and action taken only during the Redevelopment Agency Meeting that follows the Council Meeting today.

REDEVELOPMENT AGENCY BOARD CONVENED TO CONSIDER ITEM 9.1 IN A JOINT SESSION

9.1 Acquisition and Rehabilitation of a Multi-Service Community Service Center.

Recommendation:

- (a) (1) Adopt a resolution by the City Council to authorize:
 - (a) Changes to the 2008-09 Consolidated Annual Action Plan to award and appropriate \$600,000 in CDBG funds to CTC for the acquisition of the Property.
 - (b) The assumption by CTC of a \$550,000 CDBG 15-year conditional loan previously awarded to Kelly Park Community Resource Center (Kelly Park) with St. Vincent de Paul acting as fiscal agent, for the 2003 rehabilitation of the Property.

(Item Continued on the next page)

9. JOINT COUNCIL/REDEVELOPMENT AGENCY

9.1 Acquisition and Rehabilitation of a Multi-Service Community Service Center (Cont'd.)

- (a) (1) (c) The assumption by CTC of a \$1,000,000 Healthy Neighborhood Venture Fund (HNVF) 15-year conditional loan previously awarded to Kelly Park with St. Vincent de Paul acting as fiscal agent, for the 2003 acquisition and rehabilitation of the Property.
- (d) The Director of Housing to negotiate and execute a CDBG 15-year conditional loan agreement and promissory note secured by a deed of trust in the amount of \$600,000.
- (e) The Director of Parks, Recreation and Neighborhood Services to negotiate and execute a one-time \$300,000 service agreement with CTC for the continued operations of day laborer services.
- (f) The closing of the Consolidated Annual Action Plan Amendment public hearing process.

Resolution No. 74649 adopted.

- (2) Adopt the following Appropriation Ordinance and Funding Sources Resolution Amendments in the Community Development Block Grant (CDBG) Funds:
 - (a) Establish an appropriation to the Housing Department for the CTC Property Acquisition Project in the amount of \$600,000.
 - (b) Decrease Ending Fund Balance by \$600,000.

Ordinance No. 28435 adopted.

Resolution No. 74650 adopted.

- (b) Adopt a resolution by the Redevelopment Agency Board:
 - (1) Adjusting the Redevelopment Agency's FY 2008-09 Adopted Capital Budget to reallocate \$662,000 from the Japantown – Nishioka Site Acquisition project line to the new Story Road – Career Training Center project line in the Neighborhood Business Investment Program Redevelopment Area, and amending the FY 2008-2009 Agency appropriations resolution as detailed in Attachment A.

Redevelopment Agency Resolution No. 5862 adopted.

- (2) Authorizing the Executive Director of the Redevelopment Agency (Agency), to negotiate and execute an Owner Participation Agreement with CTC to provide Agency assistance to rehabilitate the Property.

(City Manager's Office/Redevelopment Agency)

Redevelopment Agency Resolution No. 5863 adopted.

10. GENERAL PLAN PUBLIC HEARINGS ON CONSENT CALENDAR

No General Plan Public Hearing at this time.

11. PUBLIC HEARINGS ON CONSENT CALENDAR

(To be heard by the City Council at 7:00 p.m.)

Notice to the public: There will be no separate discussion of Public Hearings Consent Calendar (Item 11.1) as they are considered to be routine by the City Council and will be adopted by one motion. If a member of the City Council, staff, or public requests discussion on a particular item, that item will be removed from the Public Hearings Consent Calendar (Item 11.1) and considered separately.

11.1 Public Hearings on Consent Calendar.

Recommendation:

- (a) Consideration of an ordinance rezoning the real property located along Coleman Avenue between Newhall Street and Santa Clara/San José City limits (former FMC Site) from A(PD) Planned Development Zoning to A(PD) Planned Development Zoning to clarify development capacity, modify building setbacks, revise vehicular and pedestrian circulation and include other minor technical, clarifying or clerical revisions to the development standards of the existing Planned Development Zoning District on an approximately 92.5 gross acre site (City of San José, Arcadia Development Co./Coleman Airport Partners, Owners/Applicant. CEQA: EIR Resolution No. 71716 and Addenda thereto. Director of Planning, Building and Code Enforcement recommends approval. No Planning Commission action required.
PDC08-050- District 3

Ordinance No. 28436 passed for publication.

END OF PUBLIC HEARINGS ON CONSENT CALENDAR

11. PUBLIC HEARINGS

11.2 Ordinance amending Section 20.70.100 of Chapter 20.70.

Recommendation: Consideration of an ordinance of the City of San José amending Title 20 of the San José Municipal Code, the Zoning Code, to amend Section 20.70.100 of Chapter 20.70 to allow business support and business and administrative office uses as permitted uses with a special use permit in the DG Downtown Ground-Floor space overlay, modify parking requirements for live/work units, and allow animal grooming as a permitted use in downtown zoning districts; Amend Section 20.70.120 to modify the residential occupancy requirement for live/work units; and make other related clarifying changes and amendments. CEQA: Exempt, PP08-197. Director of Planning, Building and Code Enforcement and Planning Commission recommend approval (7-0-0).
Citywide

Deferred to 11/18/08 per Orders of the Day.

11.3 Ordinance rezoning the real property located at/on the east side of Campbell Avenue, approximately 400 feet southeasterly of El Camino Real.

Recommendation: Consideration of an ordinance rezoning the real property located at/on the east side of Campbell Avenue, approximately 400 feet southeasterly of El Camino Real (1270 Campbell Avenue) from HI Heavy Industrial Zoning District to A(PD) Planned Development Zoning District to allow up to 259 multi-family residences over a podium garage on a 5.11 gross acre site (Sobrato Development Co, Owner; Sobrato Development Mr. Tim Steele, Developer). CEQA: Mitigated Negative Declaration. Director of Planning, Building and Code Enforcement and Planning Commission recommend approval to allow up to a maximum of 255 multi-family residences (7-0-0).

PDC07-081 – District 3

Ordinance No. 28437 passed for publication, with three conditions:

(1) Require City Manager to negotiate immediately with the City of Santa Clara to obtain a formal staff agreement, in writing, whether memorialized in Memorandum of Understanding or other similar public document. The agreement should identify those steps that will mitigate traffic accident risk at the intersection of El Camino Real and Campbell Avenue, such as (for example) the closure or re-routing of the driveway to the office complex facing that intersection. (2) Require City Manager, in consultation with CalTrans and the City of Santa Clara, to obtain traffic accident data relating to the intersection of Campbell Avenue and El Camino Real for a period of 12 to 18 months before and after the issuance of the certificate of occupancy on the majority of approved units, and report to the appropriate Council committee with the findings upon their collection. (3) Require notification of the Newhall Neighborhood Association board members of the results of the City Manager's efforts as to conditions #1 and #2.

11. PUBLIC HEARINGS

11.4 Ordinance rezoning the real property located at the southwest corner of The Alameda and Sunol Street.

Recommendation: Consideration of an ordinance rezoning the real property located at the southwest corner of The Alameda and Sunol Street (850 The Alameda) from the LI Light Industrial Zoning District to the A(PD) Planned Development Zoning District to allow up to 3,200 square feet of commercial uses and up to 9 single-family attached residential units in a mixed-use configuration on a 0.30 gross acre site (Ham Real Est Inv LLC, Owner/Developer). CEQA: Mitigated Negative Declaration. Director of Planning, Building and Code Enforcement and Planning Commission recommend approval (7-0-0).
PDC07-020 – District 6

Ordinance No. 28438 passed for publication.

- **Notice of City Engineer's Pending Decision on Final Maps**
In accordance with Sec. 19.16.140d of the San José Municipal Code, this is notice of the City Engineer's receipt of the following Final Maps for review:

<u>Tract</u>	<u>Location</u>	<u>Council District</u>	<u>Developer</u>	<u>Lots/Units</u>	<u>Type</u>
9960	Southeast corner of Hostetter Road and Sierra Creek Way	4	Marvin Bamburg	6 Lots / 6 Units	Single Family Detached
10022	East corner of Berryessa Road and Jackson Avenue	4	Berryessa-Jackson Partners LLC	105 Lots / 371 Units	Multi-Family Attached and Retail

- **Open Forum**
(1) **Dave McLeroy expressed concerns over water wasted in City landscaping and offered solutions . He was referred to Director of Transportation, Jim Helmer.**
(2) **Paul Manley summarized ideas outlined in two letters about decreasing costs of City services through the use of prevailing wage and increasing City revenue.**
- **Adjournment**
The Council of the City of San José adjourned at 8:39 p.m.

8. JOINT REDEVELOPMENT AGENCY/COUNCIL

8.1 Approval of an agreement with the San Jose Conservation Corps & Charter School for the creation of a Smart Start Center at 1560 Berger Drive.

Recommendations:

- (a) Adoption of a resolution by the Redevelopment Agency Board finding that creation of a Smart Start Center at 1560 Berger Drive will be of Primary Benefit to the Rincon de Los Esteros Redevelopment Project Area.

Redevelopment Agency Resolution No. 5868 adopted.

- (b) Redevelopment Agency and City Council approval of an agreement with the San Jose Conservation Corps & Charter School, a California Non-Profit Corporation, in the amount of \$600,000, for improvements to the property located at 1560 Berger Drive for the creation of a Smart Start Center providing 82 childcare spaces to be operated under Smart Start San Jose standards.

CEQA: Mitigated Negative Declaration, File No. CP06-004. **[RINCON DE LOS ESTEROS]** (Deferred from 10/21/08, City Council Agenda, Item 9.1)

Approved.

8.2 Approval of actions related to the development of market rate housing on the North San Pedro Housing Project site.

Recommendation:

- (a) Redevelopment Agency Board approval of an assignment of the Disposition And Development Agreement (DDA) from the Olson Company to Intracorp San Francisco (name changed to North San Pedro Townhomes, LLC).

Approved.

- (b) Adoption of a resolution by the City Council approving the sale of certain sites located on Agency-owned property generally located in the blocks bounded by Highway 87 to the west, West Saint James Street to the south, North Market Street to the east and a Union Pacific Railroad right of way to the north to Intracorp, accepting the 33433 Summary Report and Re-Use Valuation, and finding that the sale of the property will assist in the elimination of blight, is consistent with the Implementation Plan for the Julian Stockton Redevelopment Project Area, and that the consideration for the property is not less than the fair reuse value for the proposed use, with the covenants and conditions and development costs authorized by the DDA.

Resolution No. 74651 adopted.

(Item Continued on the next page)

8. JOINT REDEVELOPMENT AGENCY/COUNCIL

- 8.2 (c) Redevelopment Agency Board approval of an Amended and Restated Disposition and Development with Intracorp San Francisco (name changed to North San Pedro Townhomes, LLC) and authorizing the Executive Director to execute ancillary documents contemplated by the DDA, to close escrow subject to compliance with the terms of the DDA, and to negotiate and execute amendments to the DDA substantially in conformance with the intent of the DDA and as reasonably necessary to conform to lender requirements.

Redevelopment Agency Resolution No. 5869 adopted.

- (d) Adoption of a resolution by the City Council approving the sale of certain sites located on Agency-owned property generally located in the blocks bounded by Highway 87 to the west, West Saint James Street to the south, North Market Street to the east and a Union Pacific Railroad right of way to the north, to Barry Swenson Builder (Swenson), accepting the 33433 Summary Report and Re-Use Valuation and finding that the sale of the property will assist in the elimination of blight, is consistent with the Implementation Plan for the Julian-Stockton Redevelopment Project Area and that the consideration for the property is not less than the fair reuse value for the proposed use, with the covenants and conditions and development costs authorized by the Disposition and Development Agreement.

Resolution No. 74652 adopted.

- (e) Redevelopment Agency Board approval of an Amended and Restated Disposition and Development Agreement with Swenson and authorizing the Executive Director to execute ancillary documents contemplated by the DDA, to close escrow subject to compliance with the terms of the DDA, and to negotiate and execute amendments to the DDA substantially in conformance with the intent of the DDA and as reasonably necessary to conform to lender requirements.

CEQA: Resolution No: 72170, File no GPT03-03-01a and GP03-03-01b Brandenburg Mixed Use Project/ North San Pedro Housing Sites. [JULIAN-STOCKTON]

Redevelopment Agency Resolution No. 5870 adopted.